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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 G.R., a Minor, by and Through Her
Guardian Mayra De La Cruz, Individually
16 and on Behalf of All Others Similarly
Situating,

17 Plaintiff,

18 v.

19 TIKTOK, INC., a California Corporation,
20 and BYTEDANCE INC., a Delaware
Corporation,

21 Defendants.
22

Case No.: 2:20-cv-04537

**CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL**

1 Plaintiff G.R., by and through her guardian, Mayra De La Cruz, complains
2 upon knowledge as to herself and her own actions and upon information and belief as
3 to all other matters against Defendants TikTok, Inc. and ByteDance, Inc. (collectively,
4 “TikTok” or “Defendants”), as follows:

5 **SUMMARY OF ALLEGATIONS**

6 1. This action arises from Defendants’ unlawful and intentional collection
7 and use of minors’ confidential biometric information without their consent and
8 subsequent unauthorized disclosure of that information to third parties from
9 approximately May 14, 2017 to the present (the “Class Period”) in violation of state
10 law. Plaintiff, on behalf of herself and similarly situated users of the TikTok app,
11 brings this suit under the California Consumer Privacy Act of 2018 (“CCPA”), Cal.
12 Civ. Code. §1798.100 *et seq.*, and the California Unfair Competition Law (“UCL”),
13 Cal. Bus. & Prof. Code §17200 *et seq.*, and for declaratory and other equitable relief
14 under the Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*

15 2. TikTok is a short-video sharing app and social network platform, and is
16 one of the most popular and fastest growing social networking apps in the world.
17 TikTok allows users to create, view, and share three to 15-second videos of dancing,
18 lip-syncing, and other forms of self-expression, as well as short looping videos of
19 three to 60 seconds. TikTok currently has approximately 2.4 million active daily
20 users, many of whom are minors.

21 3. The TikTok app scans a user’s facial geometry before running an
22 algorithm to determine the user’s age. The app also uses facial scans to allow users
23 to superimpose animated facial filters onto the moving faces of video subjects.

24 4. Minors who have registered for or used TikTok and interacted with the
25 app have not consented to TikTok’s collection, retention, or release of their biometric
26 information.

1 5. Plaintiff and Class Members have particular concerns given TikTok’s
 2 reported connections to the Chinese government, which have recently come under
 3 close public scrutiny. At least two U.S. Senators formally requested that the
 4 intelligence community conduct an assessment of the national security risks posed by
 5 TikTok. Because of data concerns, some U.S. military branches have even banned
 6 the use of the app on government-issued phones. Senator Josh Hawley (R–Mo.) has
 7 called for a total ban on the use of the app across the United States.¹ Reddit CEO and
 8 co-founder Steve Huffman, called TikTok “fundamentally parasitic” due to privacy
 9 concerns.²

10 6. California laws recognize individual’s reasonable expectations of
 11 privacy in biometric information. California specifically recognizes privacy as a
 12 fundamental right, and accordingly, California law prohibits, among other things,
 13 collecting, capturing, obtaining, disclosing, redisclosing, disseminating or profiting
 14 from the biometric identifiers or information of an individual without providing
 15 written notice and without obtaining a written release from the impacted individual or
 16 his authorized representative. California also requires private entities in possession
 17 of biometric identifiers to adopt retention policies and to take measures to prevent the
 18 release of that information.

19 7. Defendants engaged in this conduct: (a) without adequately informing
 20 the impacted individuals, including Plaintiff and members of the proposed class (the
 21 “Class Members”), that their biometric identifiers were being collected, captured,
 22 obtained, disclosed, redisclosed, or otherwise disseminated; (b) without informing the
 23 impacted individuals in writing of the purpose of the collection, capture, obtainment,

24
 25 ¹ T.J. McCue, *Is TikTok Raiding Your Privacy in 2020? Here Is How To Stop It*,
 FORBES (Feb. 13, 2020), <https://www.forbes.com/sites/tjmccue/2020/02/13/is-tiktok-raiding-your-privacy-in-2020-here-is-how-to-stop-it/#1e34f6b569c8>.

26 ² Chaim Gartenberg, *Reddit CEO Says TikTok is ‘fundamentally parasitic,’ cites*
 27 *privacy concerns*, THE VERGE (Feb. 27, 2020), <https://www.theverge.com/2020/2/27/21155845/reddit-ceo-steve-huffman-tiktok-privacy-concerns-spyware-fingerprinting-tracking-users>.
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1 disclosure, redisclosure, and dissemination of the biometric identifiers and
2 information; and (c) without seeking and obtaining written releases from such
3 impacted individuals or their authorized representatives.

4 8. Given the concealed and secretive nature of Defendants' conduct, more
5 evidence supporting the allegations in this complaint will be uncovered after a
6 reasonable opportunity for discovery.

7 **JURISDICTION AND VENUE**

8 9. This Court has jurisdiction over the subject matter of this action pursuant
9 to 28 U.S.C §1332(d) because the amount in controversy for the Class exceeds
10 \$5,000,000 exclusive of interest and costs, there are more than 100 putative Class
11 Members, and minimal diversity exists because more than two-thirds of putative Class
12 Members are citizens of a state different than Defendants.

13 10. This Court has general personal jurisdiction over Defendants because
14 their principal places of business are in California. Additionally, Defendants are
15 subject to specific personal jurisdiction in this State because a substantial part of the
16 events and conduct giving rise to Plaintiff's and the Class's claims occurred in this
17 State.

18 11. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because
19 a substantial portion of the conduct described in this complaint was carried out in this
20 District. Furthermore, Defendant TikTok, Inc. is headquartered in this District and
21 subject to personal jurisdiction in this District.

22 **PARTIES**

23 **A. Plaintiff**

24 12. Plaintiff G.R. ("Plaintiff G.R.") is a minor and brings this suit by and
25 through her legal guardian, Mayra De La Cruz. Plaintiff G.R. is a natural person and
26 citizen of the State of California and a resident of Los Angeles County.

1 **B. Defendants**

2 13. Defendant TikTok, Inc. (“TikTok”) is a corporation organized and
3 existing under the laws of the State of California, with its principal place of business
4 at 10100 Venice Boulevard, Culver City, California 90232.

5 14. Defendant ByteDance, Inc. is a corporation existing under the laws of
6 the State of Delaware, with its principal place of business at 3000 El Camino Real,
7 Building 2, Suite 400, Palo Alto, California 94306.

8 **SUBSTANTIVE ALLEGATIONS**

9 **Background Information on TikTok**

10 15. ByteDance, Inc. the parent company of TikTok, Inc., first launched the
11 TikTok app (then known as “Douyin”) in China in September 2016. The app
12 ultimately became available in the United States in August 2018 following a merger
13 between TikTok and Shanghai-based social media platform, musical.ly. While
14 TikTok and Douyin are similar to each other and essentially the same app, they run
15 on separate servers to comply with Chinese censorship restrictions.

16 16. The app allows users to create short music and lip-sync videos of three
17 seconds to 15 seconds and short looping videos of three seconds to 60 seconds. By
18 October 2018, TikTok was the most downloaded app in the United States.

19 17. As of January 2020, minor users, like Plaintiff G.R. and Class Members,
20 accounted for 37.2% of TikTok’s active user accounts in the United States.

21 18. In direct violation of the CCPA, the TikTok app’s proprietary facial
22 recognition technology scans every video uploaded to the app for faces, extracts
23 geometric data relating to the unique points and contours (*i.e.*, biometric identifiers)
24 of each face, and then uses that data to create and store a template of each face – all
25 without ever informing anyone of this practice.

26 19. To accomplish this end, Defendants implemented an artificial
27 intelligence tool in the app that automatically performs these facial scans. This
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1 technology permits users to superimpose images onto their face or to use various
2 “filters” that alter, distort, or enhance their facial features.

3 20. In collecting, capturing and otherwise obtaining the biometric identifiers
4 and information of Plaintiff and Class Members and, upon information and belief,
5 subsequently disclosing, redisclosing, and otherwise disseminating those biometric
6 identifiers and information to other related corporate entities – all without providing
7 the requisite notice, obtaining the requisite releases or satisfying any of CCPA’s other
8 provisions that would excuse it from CCPA’s mandates – Defendants violated CCPA,
9 Defendants failed to use a reasonable standard of care to protect Plaintiff’s and Class
10 Members’ biometric identifiers and information from disclosure and, in fact,
11 affirmatively disclosed their biometric identifiers and information.³

12 21. In further violation of CCPA, as a private entity in possession of
13 Plaintiff’s and Class Members’ biometric identifiers and information, Defendants
14 failed to adopt or make available to the public a retention policy and information once
15 the initial purpose for collecting them had or has been satisfied.

16 22. Defendants’ violations of CCPA were intentional and reckless or, in the
17 alternative, negligent.

18 **TikTok’s Unlawful Actions Have Harmed Plaintiff**

19 23. Plaintiff G.R., an 8-year-old minor, has, within the applicable statute of
20 limitations, uploaded and posted numerous videos to TikTok, which include images
21 of her face, and her face has appeared in other users’ uploaded videos. Plaintiff G.R.
22 has uploaded videos, and/or Plaintiff G.R.’s face has appeared in videos uploaded by

23 ³ <https://www.tiktok.com/legal/privacy-policy?lang=en> (last visited May 15,
24 2020) (“We share the categories of personal information listed above with service
25 providers and business partners to help us perform business operations and for
26 business purposes, including research, payment processing and transaction
27 fulfillment, database maintenance, administering contests and special offers,
28 technology services, deliveries, email deployment, advertising, analytics,
measurement, data storage and hosting, disaster recovery, search engine optimization,
marketing, and data processing.”).

1 other users, employing TikTok's face sticker, face filter, and face tracker lens
2 technology.

3 24. Through these videos, Defendants have collected and stored Plaintiff
4 G.R.'s unique biometric identifiers or biometric information. Upon information and
5 belief, Defendants have disclosed and/or disseminated these biometric identifiers or
6 biometric information to third parties.

7 25. At no point did Plaintiff consent to or authorize TikTok to intercept,
8 record, disclose, or otherwise misuse her biometric information. Moreover, TikTok
9 could not have obtained consent from Plaintiff G.R., who was a minor during the
10 entire Class Period. Plaintiff would not have registered for or used for TikTok had
11 she known that TikTok engaged in the unlawful actions described herein.

12 26. Plaintiff would like to continue to use TikTok in the future, but will be
13 uncertain as to whether TikTok has ceased its unlawful practices and violation of her
14 privacy rights without the equitable relief requested herein, specifically an injunction
15 prohibiting TikTok from engaging in the unlawful practices alleged herein. This is
16 particularly the case given the surreptitious nature of TikTok's misconduct.

17 **CLASS ACTION ALLEGATIONS**

18 27. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure
19 23 individually and on behalf of the following Class:

20 All minor persons who registered for or used the TikTok app from at
21 least May 14, 2017 to the present (the "Class Period").⁴

22 28. Excluded from each Class are: (1) any Judge or Magistrate presiding
23 over this action and any members of their families; (2) Defendants, Defendants'
24 subsidiaries, parents, successors, predecessors, and any entity in which Defendants or
25 their parents have a controlling interest and their current or former employees,

26
27 ⁴ Plaintiff has defined the Class based on currently available information and
28 hereby reserves the right to amend the definition of the Class, including, without
limitation, the Class Period.

1 officers, and directors; (3) persons who properly execute and file a timely request for
2 exclusion from the Class; (4) persons whose claims in this matter have been finally
3 adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and
4 Defendants' counsel; and (6) the legal representatives, successors, and assigns of any
5 such excluded persons.

6 29. **Ascertainability:** Membership of the Class is defined based on
7 objective criteria, and individual members will be identifiable from Defendants'
8 records.

9 30. **Numerosity:** The exact number of members of the Class is unknown
10 and unavailable to Plaintiff at this time, but individual joinder in this case is
11 impracticable. The Class likely consists of millions of individuals, and Class
12 Members can be identified through Defendants' records.

13 31. **Predominant Common Questions:** The Class's claims present
14 common questions of law and fact, and those questions predominate over any
15 questions that may affect individual Class Members. Common questions for the Class
16 include, but are not limited to, the following:

- 17 a. whether Defendants collect, retain, or release the biometric information
18 of minors who interact with them;
- 19 b. whether individuals who use TikTok have a reasonable expectation of
20 privacy under California law;
- 21 c. whether TikTok's business practices of collecting, retaining, releasing,
22 and otherwise misusing users' private and confidential information and
23 other personal information violated state law;
- 24 d. whether Plaintiff and Class Members are entitled to declaratory and/or
25 injunctive relief to enjoin the unlawful conduct alleged herein; and

1 e. whether Plaintiff and Class Members have sustained damages as a result
2 of TikTok's conduct, and, if so, what is the appropriate measure of
3 damages or restitution.

4 32. **Typicality:** Plaintiff's claims are typical of the claims of the other
5 members of the proposed Class. Plaintiff and Class Members suffered an invasion of
6 privacy as a result of Defendants' wrongful conduct that is uniform across the Class.

7 33. **Adequate Representation:** Plaintiff has fairly and adequately
8 represented and protected the interests of the Class and will continue to do so. She
9 has retained counsel competent and experienced in complex litigation and class
10 actions, including privacy violations. Plaintiff has no interests that are antagonistic
11 to those of the Class, and Defendants have no defenses unique to Plaintiff. Plaintiff
12 and her counsel are committed to vigorously prosecuting this action on behalf of the
13 members of the Class, and they have the resources to do so. Neither Plaintiff nor her
14 counsel have any interests adverse to those of the other members of the Class.

15 34. **Substantial Benefits:** This class action is appropriate for certification
16 because class proceedings are superior to other available methods for the fair and
17 efficient adjudication of this controversy and joinder of all members of the Class is
18 impracticable. This proposed class action presents fewer management difficulties
19 than individual litigation, and provides the benefits of single adjudication, economies
20 of scale, and comprehensive supervision by a single court. Class treatment will create
21 economies of time, effort, and expense and promote uniform decision-making.

22 35. Plaintiff reserves the right to revise the foregoing class allegations and
23 definitions based on facts learned and legal developments following additional
24 investigation, discovery, or otherwise.

25 **CALIFORNIA LAW APPLIES TO THE ENTIRE CLASS**

26 36. California's substantive laws apply to every member of the Class,
27 regardless of where in the United States the Class Member resides. California's
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1 substantive laws may be constitutionally applied to the claims of Plaintiff and the
2 Class under the Due Process Clause, 14th Amend. §1, and the Full Faith and Credit
3 Clause, Art. IV §1 of the U.S. Constitution. California has significant contact, or
4 significant aggregation of contacts, to the claims asserted by Plaintiff and all Class
5 Members, thereby creating state interests that ensure that the choice of California state
6 law is not arbitrary or unfair.

7 37. Defendants' U.S. headquarters and principal places of business are
8 located in California. Defendants also own property and conduct substantial business
9 in California, and therefore California has an interest in regulating Defendants'
10 conduct under its laws. Defendants' decision to reside in California and avail itself
11 of California's laws, and to engage in the challenged conduct from and emanating out
12 of California, renders the application of California law to the claims herein
13 constitutionally permissible.

14 38. California is also the state from which Defendants' alleged misconduct
15 emanated. This conduct similarly injured and affected Plaintiff and all other Class
16 Members.

17 39. The application of California laws to the Class is also appropriate under
18 California's choice of law rules because California has significant contacts to the
19 claims of Plaintiff and the proposed Class, and California has a greater interest in
20 applying its laws here than any other interested state.

21 **CLAIMS FOR RELIEF**

22 **FIRST CLAIM FOR RELIEF**
23 **Violation of California Consumer Privacy Act**
24 **Cal. Civ. Code §1798.100 *et seq.***
 (on Behalf of Plaintiff and the Class)

25 40. Plaintiff re-alleges and incorporates the preceding allegations of this
26 Complaint with the same force and effect as if fully restated herein.

1 47. TikTok also engaged in business acts and practices deemed “unlawful”
2 under the UCL, because TikTok unlawfully intercepted, recorded, disclosed, and
3 otherwise misused Plaintiff G.R.’s and Class Members’ interactions without consent,
4 which violates public policy as declared by specific statutory provisions, including
5 Cal. Fam. Code §6701 and §6710, which prohibit Defendants from obtaining consent
6 by minors.

7 48. Specifically, Cal. Fam. Code §6701 states that: “A minor cannot do any
8 of the following: (a) Give a delegation of power” Cal. Fam. Code §6710 states
9 that: “Except as otherwise provided by statute, a contract of a minor may be
10 disaffirmed by the minor before majority or within a reasonable time afterwards or,
11 in case of the minor’s death within that period, by the minor’s heirs or personal
12 representative.”

13 49. TikTok did not obtain the minor Plaintiff G.R.’s consent to intercept,
14 record, disclose, or use her biometric information. TikTok could not obtain consent
15 to intercept, record, disclose or use the minor Plaintiff G.R.’s biometric information.
16 To the extent that TikTok attempts to claim that it obtained the minor Plaintiff G.R.’s
17 consent, pursuant to Cal. Fam. Code §6710, Plaintiff G.R. disaffirms such consent.

18 50. TikTok also engaged in business acts or practices deemed “unfair” under
19 the UCL because, as alleged above, TikTok failed to disclose during the Class Period
20 that TikTok was intercepting, recording, disclosing and otherwise misusing Plaintiff’s
21 and Class Members’ biometric information without their consent. Unfair acts under
22 the UCL have been interpreted using three different tests: (1) whether the public
23 policy which is a predicate to a consumer unfair competition action under the unfair
24 prong of the UCL is tethered to specific constitutional, statutory, or regulatory
25 provisions; (2) whether the gravity of the harm to the consumer caused by the
26 challenged business practice outweighs the utility of the defendant’s conduct; and (3)
27 whether the consumer injury is substantial, not outweighed by any countervailing
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1 benefits to consumers or competition, and is an injury that consumers themselves
2 could not reasonably have avoided. Defendants' conduct is unfair under each of these
3 tests. TikTok's conduct alleged is unfair under all of these tests.

4 51. As described above, TikTok's conduct violates the policies of the
5 statutes referenced above. The gravity of the harm of TikTok's secret intercepting,
6 recording, disclosure, and other misuse of Plaintiff's and Class Members' biometric
7 information, including those by minors, is significant and there is no corresponding
8 benefit to consumers of such conduct. Finally, because Plaintiff and Class Members
9 were completely unaware of TikTok's secret recordings and disclosure, they could
10 not have possibly avoided the harm.

11 52. Had Plaintiff known that her communications would be intercepted,
12 recorded, disclosed, and misused, she would not have registered for TikTok. Plaintiff
13 and Class Members have a property interest in any recordings of their biometric
14 information. By surreptitiously intercepting, recording, disclosing, or otherwise
15 misusing Plaintiff's and Class Members' biometric information, TikTok has taken
16 property from Plaintiff and Class Members without providing just or any
17 compensation.

18 53. Plaintiff, individually and on behalf of the Class, seeks: an injunction
19 enjoining TikTok from engaging in the unlawful conduct alleged in this claim and
20 requiring TikTok to delete all biometric information of Class Members, to cease
21 further collection, to implement functionality sufficient to prevent unauthorized
22 collection in the future, to cease disclosing biometric information of the Class to third
23 parties without prior consent, and other appropriate equitable relief, including but not
24 limited to improving its privacy disclosures and obtaining adequately informed
25 consent.

THIRD CLAIM FOR RELIEF
Request for Relief under the Declaratory Judgment Act
28 U.S.C. §2201 *et seq.*
(on Behalf of Plaintiff and the Class)

54. Plaintiff re-alleges and incorporates the preceding allegations of this complaint with the same force and effect as if fully restated herein.

55. Under the Declaratory Judgment Act, 28 U.S.C. §2201 *et seq.*, this Court is authorized to enter a judgment declaring the rights and legal relations of the parties and grant further necessary relief. Furthermore, the Court has broad authority to restrain acts, such as here, that are tortious and that violate the terms of the federal and state statutes described in this complaint.

56. An actual controversy has arisen in the wake of Defendants' intercepting, recording, disclosure, and misuse of Plaintiff's and Class members' biometric information without their consent as alleged herein in violation of Defendants' common law and statutory duties.

57. Plaintiff continues to suffer injury and damages as described herein as Defendants continue to intercept, record, disclose, and misuse Plaintiff's and Class Members' biometric information, including biometric information of minors whose consent to use Defendants cannot obtain.

58. Pursuant to its authority under the Declaratory Judgment Act, this Court should enter a judgment declaring, among other things, the following:

- a. Defendants continue to owe a legal duty to not intercept, record, disclose, and otherwise misuse Plaintiff's and Class Members' biometric information under, *inter alia*, the common law, CCPA, Cal. Bus. & Prof. Code §22576, and Cal. Fam. Code §6710;
- b. Defendants continue to breach their legal duties by continuing to intercept, record, disclose, and misuse Plaintiff's and Class Members' biometric information; and

1 c. Defendants' ongoing breaches of their legal duties continue to cause
2 Plaintiff and Class Members harm.

3 59. The Court should also issue corresponding injunctive relief, including
4 but not limited to, enjoining TikTok from engaging in the unlawful conduct alleged
5 in this claim and requiring TikTok to delete all biometric information of Class
6 Members, to cease further collection, and to implement functionality sufficient to
7 prevent unauthorized collection and use in the future, and other appropriate equitable
8 relief, including but not limited to, improving its privacy disclosures and obtaining
9 adequately informed consent.

10 60. If an injunction is not issued, Plaintiff will suffer irreparable injury and
11 lack an adequate legal remedy in the event of Defendants' ongoing conduct.

12 61. State laws prohibit, among other things, interception, recording,
13 disclosure, and other misuse of biometric information without consent. California
14 specifically recognizes protection of biometric information as a fundamental right.
15 Given that TikTok admits that it continues to intercept, record, disclose, and misuse
16 biometric information, including that of minors, the risk of continued violations of
17 California law is real, immediate, and substantial. Plaintiff does not have an adequate
18 remedy at law because many of the resulting injuries are reoccurring and Plaintiff will
19 be forced to bring multiple lawsuits to rectify the same conduct.

20 62. The hardship to Plaintiff and the Class if an injunction is not issued
21 exceeds the hardship to Defendants if an injunction is issued. On the other hand, the
22 cost to Defendants of complying with an injunction by complying with California law
23 and by ceasing to engage in the misconduct alleged herein is relatively minimal, and
24 Defendants have a pre-existing legal obligation to avoid invading the privacy rights
25 of consumers.

26 63. Issuance of the requested injunction will serve the public interest by
27 preventing ongoing intercepting, recording, disclosure, and misuse of biometric
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1 information without consent, and intercepting, recording, disclosure, and misuse of
2 biometric information of minors, thus eliminating the injuries that would result to
3 Plaintiff, the Class, and the millions of consumers who registered for and used
4 TikTok.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff on behalf of herself and the proposed Class,
7 respectfully requests that the Court enter an order:

8 A. Certifying this case as a class action on behalf of the Class defined above,
9 appointing Plaintiff as a representative of the Class, and appointing her counsel as
10 class counsel;

11 B. Declaring that TikTok's actions, as set out above, violate California's
12 laws cited herein;

13 C. Requiring TikTok to delete all biometric information of Members of the
14 Class, cease further collection, retention, and use, and implement functionality to
15 prevent further collection, retention, and use of biometric information of the Class
16 without prior consent, and to cease disclosing biometric information of the Class to
17 third parties without prior consent;

18 D. Requiring TikTok to undertake measures to cure the harm caused to the
19 Class by its wrongdoing, as alleged herein, including, but not limited to, improving
20 its privacy disclosures and obtaining adequately informed consent;

21 E. Awarding damages to Plaintiff and the Class in an amount to be
22 determined at trial;

23 F. Awarding Plaintiff and the Class their costs of suit, including reasonable
24 attorneys' fees and expenses;

25 G. Awarding Plaintiff and the Class pre-and post-judgment interest, to the
26 extent allowable;

1 H. Enjoining TikTok from further engaging in the unlawful conduct alleged
2 herein;

3 I. Awarding such other further injunctive and declaratory relief as is
4 necessary to protect the interests of Plaintiff and the Class; and

5 J. Awarding such other and further relief as the Court deems reasonable
6 and just.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff demands a trial by jury for all issues so triable.

9
10 Dated: May 20, 2020

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